

Attorney Docket No.: 99.49US



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Application of Dreher, et al.

Group Art Unit: 1617

Serial No.: 09/482,773

Examiner: YU, Gina C.

Filed: January 13, 2000

For: OPTICAL MAKEUP COMPOSITION

**SUPPLEMENTAL APPELLANT'S BRIEF PURSUANT TO 37 CFR 41.37**

Commissioner of Patents  
Attention: Board of Patent Appeals and Interferences  
Alexandria, VA 22313-1450

Sir:

Appellants hereby submit an amended appeal brief to the Board of Patent Appeals and Interferences in response to an Order Returning Undocketed Appeal to Examiner. The Order of October 21, 2005 found the Appeal Brief submitted on November 26, 2004 to be non-compliant with rule 37 CFR 41.37(c), effective September 13, 2004.

Appellants previously submitted an original appeal brief on November 26, 2004, and then, on July 26, 2005, Appellants submitted a Reply to an Examiner's Response to Appeal Brief of June 3, 2005. Subsequently, the Order Returning Undocketed Appeal to Examiner found that the application is not in condition for docketing as an appeal, since the following matters require attention:

1. proper consideration by the Examiner of the IDS filed April 22, 2005
2. insertion into Image File Wrapper of prior art reference: Hurst, S. "Face Powders," Poucher's Perfumes, Cosmetics and Soaps, vol. 3, (1993, 9<sup>th</sup> ed. Hilda Butler), pp 116-121, Chapman & Hall
3. submission of a substitute appeal brief in compliance with 37 CFR 41.37(c) as it was found that the brief did not contain a summary of

claimed subject matter as set forth in 37 CFR 41.37(c) (1) (v), grounds of rejection to be reviewed on appeal, as set forth in 37 CFR 41.37 (c)(1)(vi), evidence appendix, as set forth in 37 CFR 41.37(c)(1)(ix), and related proceedings appendix, as set forth in 37 CFR 41.37(c)(1)(x).

The presently attached brief is amended to comply with the provisions of 37 CFR 41.37(c). No new evidence has been added. The due date for compliance is believed to be one month from the mailing date of the Notification of Non-Compliant Appeal Brief, dated December 29, 2005. Therefore, a petition for extension of time for two months and the appropriate fee are submitted concurrently with this substitute brief.

## **APPEAL BRIEF**

### **REAL PARTY IN INTEREST**

The name of the real party in interest in this appeal is Color Access, Inc., the assignee of the application.

### **RELATED APPEALS AND INTERFERENCES**

There are no other appeals or interferences relating to the instant application that would directly affect, be directly affected by, or have a bearing of any kind on the Board's decision in this appeal that are known to Appellants.

### **STATUS OF THE CLAIMS**

Claims 1 to 34 remain rejected and pending in this application. The appealed claims are claims 1 to 11 of the response under 37 C.F.R. mailed June 24, 2004.

### **STATUS OF AMENDMENTS**

An Amendment under 37 C.F.R. 1.116, filed on June 24, 2004, was considered but in the Advisory Action mailed on August 16, 2004, it was stated that the proposed amendments (to claims 12, 14, 16, 21, 32 and 33) raise new issues that would require further consideration and/or search, and that they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal. The amendments were not entered, and claims 12 to 34 are not being appealed.

### **SUMMARY OF CLAIMED SUBJECT MATTER**

The invention of independent claim 1 is a method of reducing the appearance of lines and wrinkles associated with aging of the skin, which comprises applying to the skin exhibiting lines and wrinkles a makeup composition comprising an interference pigment having a blue or violet reflectance, combined with at least one metal oxide pigment (see page 2, lines 9-12 of the present specification).

The invention of independent claim 12 is a method of reducing the appearance of lines and wrinkles on the skin, which comprises applying to the skin a makeup composition comprising an interference pigment having only a blue reflectance, combined with at least one metal oxide pigment, and an inorganic, non-matte, non-spherical powder (see page 2, lines 9-15 of the present specification).

The invention of independent claim 21 is a skin-colored makeup composition comprising an interference pigment having a blue or violet reflectance in an amount of from about 1 to about 9% by weight of the total composition, combined with at least one metal oxide pigment and an inorganic powder (see page 2, lines 12-15 and page 3, lines 16 and 17 of the present specification).

#### **GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

The outstanding issues are whether claims 1-7 and 9-11 are rendered obvious by Kimura et al (U.S. Patent No. 5,690,916, hereinafter referred to as "the '916 reference") in view of Hineno et al (U.S. Patent No. 6,207,174, hereinafter referred to as "the '174 reference"), and whether claim 8 is rendered obvious by the combination of the aforementioned references with Hurst ("Face Powders", Poucher's Perfumes, Cosmetics and Soaps, 1993, hereinafter the "Hurst" reference). Specifically, the question is whether one of ordinary skill in the art would have any expectation that applying the compositions of the '916 reference to age-wrinkled skin would, in view of the disclosure in the '174 reference, or the disclosures in the '174 reference and in the Hurst reference, have the effect of reducing the appearance of lines and wrinkles on age-wrinkled skin.

#### **ARGUMENT**

##### **Claims 1-11**

For purposes of determining patentability, claims 1 to 7 and 9 to 11; and claim 8, drawn to related issues of the present appeal, are grouped together and all grounds of rejection which Appellants contest apply to these claims. Specifically, claims 1 to 11 are grouped together as they apply to the grounds of rejection based on 35 U.S.C. § 103(a).

The present invention relates to a method of reducing the appearance of lines and wrinkles associated with aging of the skin, which method comprises applying to the skin exhibiting the lines and wrinkles a makeup composition comprising an interference pigment having a blue or violet reflectance, combined with at least one metal oxide pigment.

a. **Claims 1-7 and 9-11**

The '916 reference fails to teach or suggest a method of using the compositions disclosed therein to visibly reduce wrinkles or lines in the skin caused by aging. The '174 reference fails to teach the use of a composition comprising a blue or violet interference pigment to camouflage wrinkles or lines in the skin.

The Appellants traverse the Examiner's reasoning, with regard to the patentability of claims 1 to 7 and 9 to 11 that, although the '916 reference fails to explicitly teach using the compositions disclosed therein to visibly reduce wrinkles or lines caused by aging, since lines and wrinkles are obviously present in the mature users' skin, the application of the "916 composition to the mature users' skin would inherently render the desired wrinkle minimizing effect which Appellants claim, and further that, since the '174 reference teaches the use of composite powders comprising interference pigments useful in covering wrinkles and improving skin color (examples 1 and 2, Tables 2 and 3), it would have been obvious to one having ordinary skill in the art at the time the invention was made to have used the '916 reference compositions as motivated by the '174 reference because of the expectation of successfully enhancing the wrinkle coverage effect and improving skin color tone. Each cited reference is introduced separately, and then Appellants' arguments regarding the examination of the cited references combination as asserted by the Examiner are provided.

1. **The '916 reference**

The Examiner's obviousness rejection is based on the '916 reference for teaching a method of applying to the skin a composition comprising an interference pigment combined with a metal oxide pigment. Specifically, it is taught in the '916 reference that the compositions disclosed therein are provided for adjusting skin color so that a hyperchromic portion of the skin can become inconspicuous by virtue of an

interference action by a material in the compositions having a transmitted light component which is a complementary color to the color of the skin area to be adjusted (column 2, lines 25-29 of the reference). It is the Appellants' understanding from this disclosure that the reference compositions are not intended to cover the discoloration, such as by using a skin-colored makeup, but, by reflecting a color complementary to the discoloration (interference effect), trick the viewer's eye into perceiving the discoloration as skin-colored. In fact, the reference teaches against using a composition with a high amount of pigment, such as would be used in a skin-colored foundation, for covering over a blue or red discoloration, since the high amount of pigment would "spoil the transparent feel" of the composition (column 1, lines 59-63 of the reference).

The claims at issue are not directed to a composition comprising an interference pigment in combination with a metal oxide pigment. Rather, claim 1 recites "A method of reducing the appearance of lines and wrinkles associated with aging of the skin, which comprises applying to the skin exhibiting lines and wrinkles a makeup composition comprising an interference pigment having a blue or violet reflectance, combined with at least one metal oxide pigment." The Examiner has focused on the similarity of the compositions. Nevertheless, the claims at issue are not directed to compositions but to methods. As the '916 reference is completely silent on the issue of reducing the appearance of lines and wrinkles associated with aging, there is nowhere in the '916 reference a suggestion to use a composition comprising a blue or violet interference pigment in combination with a metal oxide pigment or to apply the composition to skin exhibiting lines and wrinkles. The Examiner has not in fact addressed all of the fundamental aspects of the method as claimed, which is of course the only way in which an obviousness analysis can be properly conducted. Establishment of a *prima facie* case of obviousness requires, *inter alia*, that the prior art cite, teach or suggest all claim limitations. *In re Royka*, 180 USPQ 580 (CCPA 1974). Until the Examiner has shown that all the stated elements of the present claims are anywhere suggested or taught in the patent, an obviousness rejection of any type based on that document cannot be sustained.

Furthermore, the Examiner suggests that whoever uses the method in the patent, his or her skin would meet the limitation of "applying to the skin exhibiting lines and

wrinkles a composition comprising..." If the Examiner is saying that one practicing the method in the patent would necessarily be practicing the claimed method, that is, that the method in the patent will function in the claimed beneficial manner when topically applied to the skin, then the Examiner is confusing an obviousness analysis with anticipation based on inherency. It is well-settled that inherency may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient. *In re Oelrich and Divigard*, 212 USPQ 323 (CCPA 1981) (citing *In re Hansgirg v. Kemmer*, 40 USPQ 665). It must also be recognized that, in order for a reference to anticipate by inherency, the subject matter being claimed must undeniably and irrefutably follow from the prior art disclosure. *Hughes Aircraft Co. v. United States*, 8 USPQ2d 1580 (Ct. C. 1988). A person of ordinary skill in the art reading the patent and the present specification would appreciate that the method in the patent and the claimed method are not directed to the same population of people in need of such treatments on their skin. A person of ordinary skill in the art reading the patent would immediately understand that the compositions were not said to reduce the appearance of lines and wrinkles associated with aging of the skin.

The Examiner has merely relied on personal opinion and has provided no extrinsic evidence as proof that one skilled in the art would expect that applying the '916 reference composition to discolored skin would necessarily result in its application to age-wrinkled skin.

That the step of applying the "916 reference composition to discolored skin might possibly also involve the application of the composition to age-wrinkled skin also is not adequate to support a rejection based on anticipation by inherency. The court in *Eibel Process Co. v. Minnesota & Ontario Paper Co.*, 261 US 45, 66 (1923) held that accidental occurrences of the claimed subject matter, not intended and not appreciated, do not constitute anticipation.

One simply cannot ignore that the '916 reference does not teach applying the composition to skin exhibiting lines and wrinkles for the specific purpose of reducing the appearance of lines and wrinkles associated with aging of the skin. In this connection, the Examiner is directed to the recent decision, *Nicholas V. Perricone, M.D. v. Medicis*

Pharmaceutical Corporation, No. 05-1022, -1023, December 20, 2005, CAFC, published at <http://caselaw.lp.findlaw.com/data2/circs/fed/051022p.pdf>, wherein it was held that the previously known use of a fatty acid ester of ascorbic acid for topical application to skin did not anticipate a method of treating skin sunburn comprising topically applying to the skin sunburn a fatty acid ester of ascorbic acid. The Court stated, "The issue is not, as the dissent and district court imply, whether Pereira's lotion if applied to skin sunburn would inherently treat that damage, but whether Pereira discloses the application of its composition to skin sunburn. It does not."

In the absence of any teaching in the '916 reference that the composition should be applied to age-wrinkled skin, so that the natural result of the operation disclosed in the '916 reference would result in the claimed step of applying the composition to age-wrinkled skin, and in the absence of any showing of the Examiner by extrinsic evidence that all skin bears age-related wrinkles, any application of the reference composition to wrinkled skin is accidental and inadequate to support a conclusion of anticipation.

## **2. The '174 reference**

The '174 reference is cited by the Examiner as a secondary reference for its teaching that a composition comprising a blue interference pigment may be used to camouflage wrinkles on skin.

Rather than considering the reference as a whole, the Examiner is reading into the following disclosure of the '174 reference a teaching that just is not there, using hindsight reasoning to find it:

"The content of the composite powder in the external composition of the present invention can be selected, as required, depending on the form or the type of the composition, the purpose of incorporating the composite powder of the present invention and the like, and it shall not particularly be limited." (col. 7, lines 36-41 of the '174 reference).

Appellants do not disagree that the reference teaches that composite powders having essentially an unlimited number of interferences colors may be produced

according to the method in the reference for use for a great variety of purposes. As stated in the reference in col. 6, lines 6-12,

"This interference color mainly depends on the refractive index of the core particle, the refractive index of the coating component and the film thickness of the coating component in the composite powder of the present invention as mentioned above. That is, the desired interference color can be obtained from the composite powder of the present invention by properly adjusting these factors determining the interference color."

Notwithstanding the Examiner's overbroad interpretation of the her selected disclosure from the '174 reference that any colorant may be used in the composite powder, for any purpose, there is nothing in the reference which would lead one skilled in the art to believe that any composition can be utilized for any purpose. One skilled in the art would appreciate that the selected disclosure in the reference more accurately teaches that, in formulating a composition, particular attention is to be paid to the type of compositions (e.g., makeup), and to the purpose for incorporating the composite powder into the makeup composition (e.g., to hide wrinkles). Nevertheless, the Applicants are not claiming a composition but a use.

Only certain compositions disclosed in the reference are indicated as useful for camouflaging wrinkles and those are found in Examples 1 and 2, including Tables 2 and 3, in columns 14-16 of the reference. Those compositions use only composite powder (1), the particles of which have a reddish reflectance. There is absolutely nothing in the reference which would suggest that a composition comprising a composite powder having a blue reflectance property would demonstrate any efficacy for hiding wrinkles. The only color that has any utility for this purpose is red.

In fact, considering the reference as a whole, it is notable that all of the examples for cosmetic compositions for application to the facial skin and the lips (facial cream, loose powder, foundations and lip cream) employ red interference composite powder (1) for the primary purpose of improving skin color (e.g., imparting a rosy tone to the skin). In all cases, an improvement in skin color was observed after application of the red interference powder-containing compositions to the skin. The reference therefore fails to teach or suggest the present invention.

### 3. The combination of the '916 and the '174 references

The combination of the '916 and the '174 references fails to render the present invention obvious since the "916 reference does not teach or suggest a method of reducing the appearance of lines and wrinkles associated with aging of the skin nor the step of applying to the skin exhibiting lines and wrinkles a composition comprising an interference pigment having a blue or violet reflectance, combined with at least one metal oxide pigment, and the '174 reference fails to teach or suggest a method of camouflaging lines and wrinkles by applying to the skin exhibiting lines and wrinkles a composition comprising a blue or violet interference pigment.

The Examiner has merely engaged in hindsight reconstruction of the claimed invention to establish her case of *prima facie* obviousness. Nevertheless, it is well-established that "While the test for establishing an implicit teaching, motivation, or suggestion is what the combination of these two statements...would have suggested to those of ordinary skill in the art, the two statements cannot be viewed in the abstract. Rather, they must be considered in the context of the teaching of the entire reference [emphasis added]. Further, a rejection cannot be predicated on the mere identification...of individual components of claimed limitations. Rather, particular findings must be made as to the reason the skilled artisan, with no knowledge of the claimed invention, would have selected these components for combination in the manner claimed." *In re Kotzab*, 54 USPQ2d 1313, 1317 (Fed. Cir. 2000).

Therefore, given, for the sake of argument, that the Examiner has provided a reasonable suggestion that would have led one skilled in the art to combine the relevant teachings of the applied references (i.e., using an interference powder-containing composition for improving skin color tone or for hiding wrinkles), the combined teachings would still not place the claimed method in the possession of one skilled in the art. The '916 reference teaches the use of a composite powder composition having a reflectance color (e.g. blue or red) which is complementary to a hyperpigmented portion of the skin (e.g. red or blue, respectively), to camouflage the hyperpigmented portion of the skin so that it appears similar to the surrounding skin. The '916 reference is completely silent about wrinkles. The '174 reference teaches that wrinkles in the skin may be covered

and/or that improved color tone may be imparted to the skin by using a composition comprising a composite powder having a red reflectance. There is no connection of blue with wrinkles in either reference. The combination of the '916 and the '174 references could only result in the teaching that a cosmetic composition having a red reflectance, as taught by the '174 reference, when applied to the skin, according to the method of the '194 reference for hiding a blue hyperpigmented portion of the skin, would also hide wrinkles when the hyperpigmented skin also includes wrinkles. The combined teaching of these references therefore does not result in the claimed method.

**b. Claim 8**

The '916 reference fails to teach or suggest a method of using the compositions disclosed therein to visibly reduce wrinkles or lines in the skin caused by aging. The '174 reference fails to teach the use of a composition comprising a blue or violet interference pigment to camouflage wrinkles or lines in the skin. The Hurst reference fails to remedy the defects of the combined teachings of the '916 and '174 references.

The Appellants traverse the Examiner's reasoning regarding the patentability of claim 8 in view of the '916 reference in combination with the '174 reference in further combination with the Hurst reference.

Claim 8, which is appended to claim 1, requires the presence of bismuth oxychloride in the composition used in the method recited in claim 1.

Neither the '916 reference nor the '174 reference teaches the use of bismuth oxychloride in the disclosed compositions. Hurst teaches the use of bismuth oxychloride, the first synthetic pearlescent pigment, to provide translucent luster or a frosted effect to enhance the wearer's natural complexion. The Examiner contends that it would have been obvious to have modified the composition of the combined '916 and '174 references as motivated by Hurst because of the expectation of successfully producing a composition with luster or frosted effect to enhance the natural look of the user.

The arguments presented above, with respect to the rejection of claims 1 to 7 and 9 to 11 in view of the '916 and the '174 references are applicable here. The

combination of the '916 and '174 references is inadequate to support the rejection of claim 8, since at least one primary element of claim 1, to which claim 8 is appended, is not anticipated by or made obvious from the references. Specifically, the '916 reference does not teach the step of applying to the skin exhibiting age-related lines and wrinkles a makeup composition comprising an interference pigment having a blue or violet reflectance, combined with at least one metal oxide pigment. Furthermore, the '174 reference only discloses wrinkle camouflage using a composition comprising a red interference pigment. Hurst merely adds the further teaching that bismuth oxychloride may be used in powders to provide luster. As the combination of the '916 reference and the '174 reference with Hurst does not result in the claimed method, the Examiner has not made out a *prima facie* case of obviousness and the invention is patentable over the references cited.

## CONCLUSION

In light of the arguments presented above, the obviousness rejection of claims 1 to 7 and 9 to 11, based on the '196 reference in view of the '174 reference, and the obviousness rejection of claim 8 in view of the aforementioned references in further combination with the Hurst reference, should be reversed as they are unfounded.

Regarding claims 1 to 7 and 9 to 11, one of ordinary skill in the art would not have looked to the '916 reference for guidance in preparing wrinkle-camouflaging compositions, since the reference is silent concerning wrinkles and is directed to adjusting the appearance of a hyperchromic portion of the skin by applying to the portion of the skin in need of color adjustment a composition containing an interference pigment of a complementary color to the color of the skin in need of color adjustment. The application of the compositions of the '916 reference to age-related wrinkles is neither taught in nor suggested by the reference. Moreover, the Examiner has provided no extrinsic evidence to prove that applying the compositions of the '916 reference to discolored skin necessarily brings about the claimed effect.

The disclosure in the '174 reference could only lead the skilled person to use a '916 composition with a red interference pigment to cover wrinkles.

Turning to the obviousness rejection of claim 8, the Hurst reference does not provide any teaching to remedy the defects of the '916 and '174 references, since the Hurst reference is concerned only with adding luster to powders and is entirely silent on reducing the appearance of age-related wrinkles in the skin.

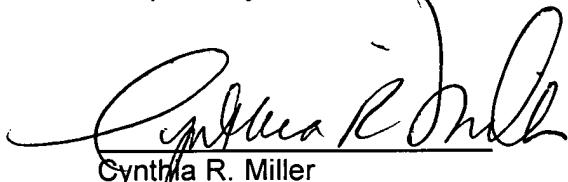
Accordingly, the Appellants respectfully request that the Honorable Board reverse, in part, the decision of the Examiner finally rejecting the pending claims and declare that claims 1-11 in this application are allowable.

A petition and fee for extension of time for one month is being submitted concurrently with this brief.

Date:

2/16/06

Respectfully submitted,



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## **CLAIMS APPENDIX**

1. A method of reducing the appearance of lines and wrinkles associated with aging of the skin, which comprises applying to the skin exhibiting lines and wrinkles a makeup composition comprising an interference pigment having a blue or violet reflectance, combined with at least one metal oxide pigment.
2. The method of claim 1 in which the interference pigment has a blue reflectance.
3. The method of claim 1 in which the interference pigment has only a blue reflectance.
4. The method of claim 1 in which the composition comprises titanium dioxide.
5. The method of claim 1 in which the composition comprises titanium dioxide and iron oxide.
6. The method of claim 1 in which the composition further comprises at least one inorganic, non-matte, non-spherical powder.
7. The method of claim 6 in which the powder is selected from the group consisting of bismuth oxychloride, boron nitride, barium sulfate, mica, sericite, muscovite, synthetic mica, titanium oxide coated mica, titanium oxide coated bismuth oxychloride, titanium oxide coated talc, platelet iron oxides, aluminum powder, lauroyl lysine and platelet talc.
8. The method of claim 1 in which the composition further comprises bismuth oxychloride.
9. The method of claim 1 in which the composition comprises from about 1 to about 9% by weight of interference pigment.

10. The method of claim 8 in which the composition comprises from about 2 to about 8% by weight of the interference pigment.
11. The method of claim 10 in which the interference pigment has only a blue reflectance.
12. A method of reducing the appearance of lines and wrinkles on the skin, which comprises applying to the skin a makeup composition comprising an interference pigment having a only blue reflectance, combined with at least one metal oxide pigment, and an inorganic, non-matte, non-spherical powder.
13. The method of claim 12 in which the composition comprises titanium dioxide.
14. The method of claim 12 in which the composition comprises titanium dioxide and at least one iron oxide.
15. The method of claim 12 in which the powder is selected from the group consisting of bismuth oxychloride, boron nitride, barium sulfate, mica, sericite, muscovite, synthetic mica, titanium oxide coated mica, titanium oxide coated bismuth oxychloride, titanium oxide coated talc, platelet iron oxides, aluminum powder, lauroyl lysine and platelet talc.
16. The method of claim 12 in which the powder is bismuth oxychloride.
17. The method of claim 12 in which the composition comprises titanium dioxide and at least one iron oxide, and bismuth oxychloride.
18. The method of claim 12 in which the interference pigment is present in an amount of from about 1 to about 9% by weight of the total composition.
19. The method of claim 12 in which the interference pigment is present in an amount of about 2 to about 8% by weight of the total composition.

20. The method of claim 17 in which the interference pigment is present in an amount of from about 2 to about 8%, the metal oxide present in an amount of about 0.1 to about 30%, and the bismuth oxychloride present in an amount of about 2 to about 10%, each by weight of the total composition.
21. A skin-colored makeup composition comprising an interference pigment having a blue or violet reflectance in an amount of from about 1 to about 9% by weight of the total composition, combined with at least one metal oxide pigment and an inorganic powder.
22. The composition of claim 21 in which the interference pigment has a blue reflectance.
23. The composition of claim 21 in which the pigment has only a blue reflectance.
24. The composition of claim 21 in which the inorganic powder is a non-spherical, non-matte powder.
25. The composition of claim 21 which comprises titanium dioxide.
26. The composition of claim 21 which comprises at least one iron oxide.
27. The composition of claim 21 in which the powder is selected from the group consisting of bismuth oxychloride, boron nitride, barium sulfate, mica, sericite, muscovite, synthetic mica, titanium oxide coated mica, titanium oxide coated bismuth oxychloride, titanium oxide coated talc, platelet iron oxides, aluminum powder, lauroyl lysine and platelet talc.
28. The composition of claim 27 in which the powder is bismuth oxychloride.
29. The composition of claim 21 which comprises titanium dioxide and at least one iron oxide.

30. The composition of claim 21 which comprises an interference pigment having only a blue reflectance; titanium dioxide and at least one iron oxide; and an inorganic nonmatte, non-spherical powder selected from the group consisting of bismuth oxychloride, boron nitride, barium sulfate, mica, sericite, muscovite, synthetic mica, titanium oxide coated mica, titanium oxide coated bismuth oxychloride, titanium oxide coated talc, platelet iron oxides, aluminum powder, lauroyl lysine and platelet talc.
31. The composition of claim 30 in which the powder is bismuth oxychloride.
32. The composition of claim 30 in which the interference pigment is present in an amount of from about 1 to about 9%, the metal oxides are present in an amount of about 0.1 to about 30%, and the powder is present in an amount of about 2 to about 15%, each by weight of the composition.
33. The composition of claim 30 in which the interference pigment is present in amount of about 2 to about 8%, by weight of the composition.
34. The composition of claim 30 in which the powder is bismuth oxychloride.

#### **EVIDENCE APPENDIX**

No evidence is presented.

#### **RELATED PROCEEDINGS APPENDIX**

There are no related proceedings or decisions.